



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,990	08/03/2001	Vlad Iorgulescu Avram	T8466417US	6128

7590 06/23/2005

Peter Milne  
Gowling Lafleur Henderson LLP  
Suite 4900  
Commerce Court West  
Toronto, ON M5L 1J3  
CANADA

EXAMINER

JASTRZAB, KRISANNE MARIE

ART UNIT	PAPER NUMBER
----------	--------------

1744

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/920,990

Applicant(s)

AVRAM, VLAD IORGULESCU

Examiner

Krisanne Jastrzab

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 18-20 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims 18-20, drawn to an invention nonelected with traverse and affirmed in the response dated 12/20/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al., in view of White et al., U.S. patent No. 5,653,919 and Monte, Jr. U.S. patent No. 5,508,685.

Murayama et al., teach a system for controlling olfactory stimuli used in conjunction with multimedia events such as films or personal computer games. The

system can be connected to a personal computer having a keyboard (column 4, lines 63-68). It can also be connected to an air conditioner and employ input control based on temperature (see column 6, lines 1-20). The scent may be released in a plurality of configurations including aerosol or thermal release means (column 7, line 10 through column 8, line 5), the thermal release means being inclusive of a heated scroll mechanism. The system is also configured to account for the humidity of the surrounding environment (column 8, lines 53-64).

White et al., teach the conventionality of humidification of controlled atmospheres utilizing a water mist producer for conditioning thereof.

Monte, Jr. teaches the provision of a water mist and a released scent in modifying an atmosphere in response to a specific stimulus. See column 2, lines 10-20, and lines 55-68, and column 3, lines 1-17.

It would have been obvious to one of ordinary skill to include water mist producing means in the apparatus of Murayama et al., because of the conventionality of providing such means when conditioning an atmosphere as supported by White et al., and because of the recognized compatibility in a controlled, responsive system, of mist production and scent release as demonstrated in Monte, Jr.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al., as applied to claims 1-6 and 8-16 above, and further in view of Bartsch et al., U.S. patent No. 6,581,915 B2.

Bartsch et al., teach the application of any atmosphere modifying agent in a controlled substance generation and release system (see column 6, lines 54-60).

It would have been well within the purview of one of ordinary skill in the art to utilize the system of Murayama et al., for the generation of any atmosphere modifying agent such as an insecticide or antibacterial, as taught in Bartsch et al., because the system affords an optimal means of delivering and dispersing such agents to atmosphere's requiring treatment.

### ***Response to Arguments***

Applicant's arguments filed 4/11/2005 have been fully considered but they are not persuasive.

Applicant argues that White does not teach mist generation, and in fact teaches keeping mist from exiting the apparatus at column 1 thereof, however, the Examiner found no teaching of retaining the mist at column 1, but instead finds that White teaches minimizing large droplet size to avoid condensation of the water causing pooling on the duct wall. The Examiner would maintain that White clearly teaches humidification with mist generating means in as highly conventional in climate control system, and that such mist generation is applicable in chemical and environmental applications and including fragrancing systems. See column 1, lines 55-68 and column 3, lines 1-15.

Applicant also argues that Bartsch merely teaches scent release which fails to rise to the level of the crowd control, antibacterial, antiviral, antitoxin or antivenoms as recited in claim 17, however, the Examiner would disagree and point out that Bartsch explicitly teaches the use of fragrances having other functions including insecticides and

aromatherapy, and it is held by the Examiner that aromatherapy constitutes crowd control in that it can have a calming effect with pleasant scents such as lavender or a dispersive effect with unpleasant scents such as sewage and skunk. See column 6, lines 54-60.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

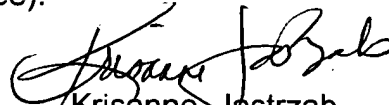
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Krisanne Jastrzab  
Primary Examiner  
Art Unit 1744

June 21, 2005